



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



March 16, 2006

James E. Hartl AICP
Director of Planning

TO: Pat Modugno, Chair
Esther L. Valadez, Vice Chair
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Wayne Rew, Commissioner

FROM: Julie Moore, AICP, Head
Housing Section

**SUBJECT: REVISED DENSITY BONUS ORDINANCE
MARCH 22, 2006 MEETING—AGENDA ITEM # 7**

SUMMARY

At your meeting on March 22, 2006, we will discuss the revised draft density bonus ordinance, included as **Attachment 1**, which responds to your concerns and to the input received from multiple sources, including the Community Development Commission (CDC) staff, the Board deputies, County Counsel, the Housing Advisory Committee, and members of the public, and which also adheres to the requirements of State Density Bonus Law as set forth in Section 65915 et seq. of the California Government Code, included for your reference as **Attachment 2**. In addition, the staff will respond to the issues and concerns that the Commission raised at the last meeting on February 15, 2006.

BACKGROUND

On January 26, 2005, the Commission instructed the staff to draft an ordinance to implement changes to the State Density Bonus Law, which was initiated by the passage of SB 1818.

On June 22, 2005, the Commission conducted a public hearing to consider the draft density bonus ordinance and negative declaration. Nine members of the public spoke in support of the draft ordinance and gave recommendations to improve it, and one raised concerns over the effect of the draft ordinance on neighborhoods. The Commission closed the public hearing and instructed the staff to return with changes to the draft ordinance to respond to the concerns and issues raised by the public, the CDC staff and the Commission.

On October 26, 2005, the staff introduced concepts to the Commission that address the concerns raised at the public hearing. The staff also presented research to support parking reductions for affordable housing near transit. Furthermore, the staff informed the Commission of the passage of SB 435, which added minor additional changes to the State Density Bonus Law. The Commission instructed the staff to return with a draft menu of incentives, and instructed County Counsel to clarify the mandates of the State law.

On February 15, 2006, the staff presented a draft menu of incentives and a conceptual framework of the revised draft ordinance. The Commission asked the staff to consider further refinements to the menu of incentives, and to report back with the revised draft ordinance.

REVISED DRAFT DENSITY BONUS ORDINANCE

In addition to changes in format and edits for consistency, the revised draft ordinance contains refinements to monitoring procedures, enforcement, fees and deposits, and other appropriate provisions. The following summarizes the revised draft ordinance, and then highlights the sections of the ordinance that go beyond the mandates of the State Density Bonus Law:

I. Processes and Procedures

Administrative Housing Permit

The revised draft ordinance proposes an administrative housing permit that is subject to a ministerial review. It should be noted that ministerial projects are not subject to CEQA requirements unless the zone or use requires some additional type of discretionary permit. However, staff would consider application information to determine if the proposal would have any potential impacts to public health and safety, the physical environment or historic resources.

Density bonus: Through the administrative housing permit, the revised draft ordinance allows for density bonuses for qualified projects that include either of the following set-asides: Affordable housing (very low, lower, moderate for-sale), senior citizen housing (senior citizen housing developments and mobilehome parks for senior citizens), land donation (to be used for affordable housing), and qualified projects that participate in the County Infill Sites Program. In addition, qualified projects that include an affordable housing set-aside and a child care facility can qualify for an additional density bonus.

Incentives: Through the administrative housing permit, the revised draft ordinance also allows for up to three incentives for qualified projects that include an affordable housing set-aside and, as applicable, child care facilities, and for qualified projects that participate in the County Infill Sites Program. The applicant has the option to request an incentive on- or off-menu. The differences between an on-menu and an off-menu incentive are the fee and the appeal procedure,

in which the decision of the director on a qualified project with an off-menu incentive can be called up for review by the Commission. County Infill Sites Program projects qualify for all of the incentives listed and up to three off-menu incentives, subject to the same off-menu procedures described for affordable housing set-aside incentives.

Parking reduction: Furthermore, through the administrative housing permit, the revised draft ordinance allows for a parking reduction that is applied to the entire housing development for qualified projects that include an affordable housing set-aside or a senior citizen housing set-aside.

Discretionary Housing Permit

The revised draft ordinance proposes a discretionary housing permit that is subject to a public hearing and review by the Commission. The discretionary housing permit provides additional density bonus options for affordable and senior citizen housing that meet or exceed the minimum set-aside requirements as specified in State Density Bonus Law, but may not be eligible for by-right bonuses and incentives. A housing development that requires a discretionary review is subject to CEQA.

Waivers or modifications of development standards: Through the discretionary housing permit, the revised draft ordinance allows for the granting of waivers or modifications to development standards that are necessary to construct qualified projects, provided that they meet the burden of proof that the waiver or modification is necessary in order to make the project economically feasible.

Senior citizen housing option: Through the discretionary housing permit, the revised draft ordinance allows for up to a 50% density bonus for qualified projects that include a minimum 50% senior citizen housing set-aside, provided that the set-aside meets the requirements of Section 51.3 and 51.12 in the California Civil Code.

Affordable housing option: Through the discretionary housing permit, the revised draft ordinance allows for qualified projects that include an affordable housing set-aside to request a greater density bonus, or incentives that do not contribute to maintaining the affordability of the housing set-aside units, as well as the transfer density bonuses and incentives.

Procedural

Application materials: The required application materials in the revised draft ordinance vary according to the housing permit type. The administrative housing permit requires the submission of a real estate development pro forma and environmental documentation, as needed. Where an applicant for an administrative housing permit requests an off-menu incentive, the applicant must

also provide a list of names and addresses of adjacent property owners and the local town council, and/or similar local community association(s). The discretionary housing permit requires the information necessary for reviewing a housing permit through a public hearing.

Covenant and agreement: The required covenant and agreement in the revised draft ordinance is designed to preserve the affordability and/or age restrictions, as well as to stipulate the terms of granting a density bonus and/or incentives, and where applicable, the operation of child care facilities.

Monitoring and enforcement: In the revised draft ordinance, the housing set-asides are monitored through annual certification with the CDC, and in the event of non-compliance, the qualified project is subject to the enforcement procedures for non-compliance in Title 22.

Fees: The fees in the revised draft ordinance include the following: administrative housing permit fee, administrative housing permit fee with off-menu incentives, discretionary housing permit fee, and financial evaluation fees and monitoring fees/deposits, payable directly to the CDC.

II. County Provisions

In addition to the basic requirements of the State Density Bonus Law and the mechanisms needed to implement them, the revised draft ordinance includes provisions that will assist the County in encouraging affordable and senior citizen housing through a range of options that are reasonable and appropriate:

Menu of incentives: The State Density Bonus Law grants incentives to qualified projects that include an affordable housing set-aside, but does not specify exactly what those incentives are, except that they must contribute to maintaining the affordability of the housing set-aside units and not cause a significant adverse impact on public health and safety, the physical environment or historic resources. The menu of incentives was created to provide developers with certainty through a list of reasonable incentives that are deemed acceptable by the County. The menu of incentives is also designed to encourage the development of more affordable, transit-oriented housing, as well as to discourage development in areas not suitable for development.

County Infill Sites Program: The State Density Bonus Law provides density bonuses and incentives for qualified projects that include an affordable housing set-aside of five dwelling units or more. Density bonuses and incentives for the County Infill Sites Program were added to the revised draft ordinance to accommodate the County-sponsored program, which provides affordable for-sale housing developments of four dwelling units or less.

Senior citizen housing option: The State Density Bonus Law caps the density bonus for qualified projects with a senior citizen housing set-aside at 20%. The senior citizen housing

option was created to allow qualified projects that provide a minimum 50% senior citizen housing set-aside up to a 50% density bonus through a discretionary review. The senior citizen housing option was added to address the need for senior citizen housing in the County, as well as to promote a diversity of housing types, incomes and needs.

Affordable housing option: The State Density Bonus Law requires that all incentives contribute to maintaining the affordability of the housing set-aside units and not cause a significant adverse impact on public health and safety, the physical environment or historic resources. The affordable housing option was created to consider qualified projects that may not meet such qualifications, but may provide desirable design features or amenities or be justified for social or other economic reasons, as well as to provide more options for qualified projects that may not have an incentive available to request a higher density bonus.

Additional provisions for moderate income housing set-asides: The State Density Bonus Law grants density bonuses and incentives for qualified for-sale, multifamily projects that include a housing set-aside for moderate income households. In order to encourage a diversity of housing types, the revised density bonus ordinance also allows for density bonuses for qualified for-sale single family projects that include moderate income housing set-asides.

ADDITIONAL DISCUSSION

The following are staff responses to issues and concerns over the menu of incentives raised by the Commission at the February 15, 2006 meeting:

Height incentive: The Commission raised concerns over the step-back requirement for the on-menu height incentive. To respond, the staff added language in the menu of incentives to apply the step-back requirement only to qualified projects that share an adjoining interior side property line with a single family residential property in zone R-1. Where the project requires more flexibility, the applicant has the option to choose an off-menu incentive. At the request of the Commission, the staff has also included the City of San Mateo's Small Lot Multifamily Design Guidelines, included as **Attachment 3**, which includes diagrams that illustrate some of the goals of the step-back requirement.

Parking management: In addition, the Commission asked the staff to consider incorporating parking management strategies into the revised draft ordinance. The staff has reviewed a number of model parking management strategies, a list of which is included as **Attachment 4**, and has concluded that including parking management provisions in the menu of incentives is unnecessary. The menu of incentives provides parking reductions for qualified projects that are 100% affordable to very low or lower income households and located near transit, and the research that the staff presented to the Commission on October 26, 2005 illustrates a clear relationship between income, proximity to transit and vehicle ownership.

Yard/Setback incentive: Furthermore, the Commission raised concern over counting each front, rear or side yard/setback modification as an incentive. To respond to the Commission's concern, the staff replaced the provision to count all yard/setback modifications as one incentive.

RECOMMENDATION

The staff recommends that the Commission consider recommending the revised draft density bonus ordinance to the Board of Supervisors, by approving the draft resolution, included as **Attachment 5**.

Recommended Motion:

I move that the Regional Planning Commission APPROVE the revised draft ordinance, including any changes discussed at today's meeting, and ADOPT the draft resolution provided by the staff, and instruct the staff to transmit the resolution and the ordinance to the Board of Supervisors.

Should you have any questions, please contact me or Connie Chung at (213) 974-6425 or jmoore@planning.co.la.ca.us.

JTM:cc

Attachments:

1. Revised Draft Density Bonus Ordinance
2. Section 65915 of the California Government Code, effective January 1, 2006
3. Small Lot Multifamily Design Guidelines for the City of San Mateo, 1992
4. Victoria Transport Policy Institute, "Parking Management Strategies for More Efficient Use of Parking Resources," Online TDM Encyclopedia, <http://www.vtpi.org/tdm.tdm28.htm>, accessed March 1, 2006
5. Draft Resolution